

Message Text

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ACTION EUR-12

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C O N F I D E N T I A L WARSAW 1521

EO 11652GDS

TAGS: PFOR, NATO, CSCE, UK, UR
SUBJ: DO EXPRESSIONS OF CONCERN ABOUT HUMAN RIGHTS CONSTITUTE
"INTERFERENCE IN THE INTERNAL AFFAIRS" OF THE STATE AT WHICH THEY
ARE DIRECTED?

REF: USNATO 1106

1. THE GROWING INTEREST IN EUROPE IN THE NEW ADMINISTRATION'S STATEMENTS ON HUMAN RIGHTS LEADS ME TO OFFER TWO OBSERVATIONS RESULTING FROM THE EXPERIENCE WE HAD IN THE BUREAU OF EUROPEAN AFFAIRS DURING THE FUROR WHICH ACCOMPANIED THE CASE OF THE LENINGRAD "HIJACKERS."

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NEITHER OF THESE POINTS ADDRESSES THE QUESTIONS OF POLICY, POLITICAL EXPEDIENCY, OR TACTICS; THOSE FISH ARE IN A QUITE SEPARATE KETTLE.

2. FIRST, STATEMENTS ABOUT HUMAN RIGHTS AND THE VIOLATION OF THEM ARE CHARACTERIZED AS "INTERFERENCE IN THE INTERNAL AFFAIRS" OF THE VIOLATING STATE. SOME PEOPLE

IN THE WEST APPARENTLY REGARD THE MAKING OF SUCH STATEMENTS AS AN INADMISSIBLE OR, AT LEAST, QUESTIONABLE PRACTICE. THAT APPEARED TO BE THE SENSE OF THE THIRD QUESTION CITED IN THE EXCERPTS FROM THE SECRETARY'S FEBRUARY 27 PRESS CONFERENCE, AS TRANSMITTED IN THE FEBRUARY 28 WIRELESS FILE (EUR -6). TO THE EXTENT THAT THIS VIEW PREVAILS -- AND EVEN SOME OFFICIALS OF WESTERN GOVERNMENTS APPEAR TO HOLD IT -- IT RESULTS FROM A MIS-UNDERSTANDING OF INTERNATIONAL LAW AND APPEARS TO BE ANOTHER INSTANCE IN WHICH SOVIET PROPAGANDISTS HAVE SUCCEEDED IN BRAINWASHING OTHERWISE QUITE WELL-INTENTIONED PEOPLE.

3. IT IS NECESSARY ONLY TO READ OPPENHEIM'S CHAPTER ON INTERVENTION TO REALIZE THAT WHAT INTERNATIONAL LAW PROSCRIBES IS FORCIBLE, PHYSICAL INTERFERENCE, AND NOT VERBAL EXPRESSIONS. IT IS PRECISELY BECAUSE THESE ARE NOT CONTRARY TO INTERNATIONAL LAW THAT THE SOVIETS AND THEIR COHORTS HAVE INVESTED SO MUCH TIME AND TROUBLE AT THE UNITED NATIONS IN THE EFFORT TO CONVINCE MEMBER-STATES TO ADOPT INSTRUMENTS WHICH WOULD PROSCRIBE "WAR-MONGERING PROPAGANDA."

4. OUR FAILURE TO REJECT AS TWADDLE CLAIMS THAT EXPRESSIONS OF INTEREST IN HUMAN RIGHTS CONSTITUTE INTERFERENCE OR INTERVENTION IN THE AFFAIRS OF OTHER STATES LEADS TO A SCENE IN WHICH LUNKOV CAN WITHOUT CONTRADICTION TELL THE UK MINISTER OF STATE THAT THE BRITISH EXPRESSION OF CONCERN FOR THE RIGHT OF SOVIET CITIZENS FREELY TO LEAVE THE USSR CONSTITUTES INTERFERENCE AND INTERFER-
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ENCE HAS, IN THE PAST, LED TO WAR (REF).

5. SECONDLY, AGAIN ACCORDING TO OPPENHEIM, "THE RELEVANT PROVISIONS OF THE (UNITED NATIONS) CHARTER CONSTITUTE LEGAL OBLIGATIONS OF THE MEMBERS OF THE UNITED NATIONS AND OF THE ORGANIZATION AS A WHOLE" (EIGHTH EDITION, VOLUME 1, SECTION 340-EL). ARTICLES 55 AND 56 OF THE CHARTER MAKE IT A LEGAL OBLIGATION OF MEMBERS TO TAKE ACTION IN COOPERATION WITH THE UN TO PROMOTE "UNIVERSAL RESPECT FOR, AND OBSERVANCE OF, HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS FOR ALL WITHOUT DISTINCTION AS TO RACE, SEX, LANGUAGE, OR RELIGION." IT IS IRONIC THAT THE UNITED STATES HAS NOT ACTED MORE EFFECTIVELY TO PROMOTE IN THE APPROPRIATE UN BODIES EFFORTS TO PRODUCE AN ENFORCEABLE INTERNATIONAL CONVENTION OF HUMAN RIGHTS. TO BE SURE, THE SOVIETS WOULD SEE TO IT THAT SUCH A COVENANT WERE NOT ADOPTED. BUT THAT IS NOT A VALID REASON WHY WE SHOULD FAIL TO WORK HARD TO REALIZE THE PROJECT AND TO LET THE WORLD KNOW THAT WE ARE DOING SO.

6. OF COURSE, THESE PROVISIONS OF THE CHARTER -- LIKE THOSE OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS -- ARE UNENFORCEABLE. BUT THAT IS NOT AT ALL THE SAME AS SAYING THAT HUMAN RIGHTS ARE NOT A COMPLETELY LEGITIMATE SUBJECT OF INTERNATIONAL LAW AND INTERNATIONAL DISCOURSE. THEY ARE.

7. AT BELGRADE THIS FALL, THE SOVIETS AND THEIR ALLIES WILL MAKE GREAT PLAY WITH THE CONTENTION THAT EXPRESSIONS OF CONCERN BY WESTERN GOVERNMENTS ABOUT THE RIGHTS OF SOVIET CITIZENS, AND OF THOSE OF THE OTHER WARSAW PACT COUNTRIES, CONSTITUTE "INTERFERENCE" OR "INTERVENTION" IN THEIR INTERNAL AFFAIRS. IT WOULD BE A MISTAKE TO WAIT UNTIL BELGRADE TO BEGIN SETTING THE RECORD STRAIGHT. WE NEED A SERIES OF HIGH-LEVEL STATEMENTS SPELLING OUT THE TWO POINTS I HAVE OUT-

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LINED ABOVE IN PREPARATION FOR BELGRADE. IT WOULD ALSO BE VERY GOOD IF WE COULD START PUSHING AT THE UN FOR AN INTERNATIONAL MOVEMENT OF HUMAN RIGHTS, AND DO SO WITH APPROPRIATE PUBLIC ATTENTION.

DAVIES

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NNN

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